E-PRESCRIBING AND ELECTRONIC HEALTH RECORDS –
ANTI-KICKBACK AND PHYSICIAN SELF-REFERRAL PROPOSALS
OPEN DOOR FORUM

November 9, 2005
2:00 PM – 4:30 PM (Eastern)

The Centers for Medicare & Medicaid Services (CMS) will be hosting a Special Open
Door Forum (ODF) on November 9, 2005 to discuss the CMS and HHS Office of
Inspector General (OIG) proposed rules associated with certain aspects of electronic
prescribing and electronic health records information technology.

The CMS proposed rule: "Medicare Program; Physicians' Referrals to Health Care
Entities With Which They Have Financial Relationships; Exceptions for Certain
Electronic Prescribing and Electronic Health Records Arrangements; Proposed Rule",
and the OIG proposed rule: "Medicare and State Health Care Programs: Fraud and
Abuse; Safe Harbor for Certain Electronic Prescribing Arrangements Under the
Anti-Kickback Statute" were published in the Federal Register on October 11, 2005.

We have planned this Open Door Forum during the comment period for the CMS and
OIG proposed regulations to have an informal dialogue with the health care industry and
other interested parties. We are seeking information on the benefits, risks, costs, and
savings for entities donating and utilizing electronic prescribing and electronic health
records technology. The forum is in addition to, and not in lieu of, the public comment
process discussed in the proposed rules. To be assured consideration, please forward
written comments, as outlined in the Federal Register, by the close of the comment
period.

One of the primary goals of the ODF is general outreach. Because we are in the early
stages of the rulemaking process and we will be considering the many forthcoming
written public comments, we are not supplying any final policy information during this
forum.

The topics that CMS and OIG are interested in hearing about during the forum include:

Covered Technology
What health information technology is necessary to have a useful, interoperable
electronic health records system, and which components should be included in physician
self-referral exceptions and anti-kickback safe harbors?
What safeguards are important to reduce the potential for fraud and abuse?

Value of the Protected Technology
Should there be a limit to the value of donated technology? How could this be measured
and applied?

<u>Impact of the Proposed Rule on Adoption</u>
If made final, would the proposed rules improve the adoption of health information technology? What would be the overall impact, considering both the overall cost of donated technology and savings attributable to e-prescribing and electronic health records?

<u>Linking the Exceptions to Technology Standards</u>
Will linking the exceptions to technology standards facilitate the adoption of interoperable health information technology?

<u>Permissible Donors and Recipients</u>
Are there other categories of donors and recipients that should be included in final exceptions or safe harbors and, if so, under what conditions should they be included?

CMS Administrator Dr. Mark McClellan will briefly discuss the overall Health Information Technology initiative in the Department of Health and Human Services, and the importance of the proposed exceptions and safe harbors in achieving an interoperable electronic health care system.

CMS and OIG staff will provide a brief overview of the proposed rules. After this, there will be a panel discussion among an invited group of outside guest experts, to elucidate some of the differing perspectives and concerns about the proposed rules.

CMS will then moderate an open question and comment period where ODF participants on the phone will have an opportunity to interact with CMS, OIG, and the panelists in an informal dialog. Questions regarding policy decisions expected to be included in the final rule cannot be answered directly, although participant viewpoints and ideas are encouraged.

We look forward to your participation.

Open Door Participation Instructions:

Dial: 1-800-837-1935 & Reference Conference ID **1567530**:

Note: TTY Communications Relay Services are available for the Hearing Impaired.
For TTY services dial 7-1-1 or 1-800-855-2880 and for Internet Relay services click here http://www.consumer.att.com/relay/which/index.html.
A Relay Communications Assistant will help.

ENCORE: 1-800-642-1687
"Encore" is a recording of this call that can be accessed by dialing 1-800-642-1687 and entering the Conf. ID # **1567530**.
The recording begins November 10th, and expires after 4 business days.

For automatic emails of Open Door Forum <u>schedule updates</u> (Listserv registration) and to view Frequently Asked Questions please visit our website at: [www.cms.hhs.gov/opendoor.](http://www.cms.hhs.gov/opendoor)